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EXAMINER

PHILLIPS, HASSAN A

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/863,572
Filing Date: May 23, 2001
Appellant(s): HANMANN ET AL.

Howard H. Sheerin (37,938)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 1, 2005, appealing from the
Office action mailed February 22, 2005.

A handwritten signature, possibly "ET", located in the bottom right corner of the page.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

NEW GROUND(S) OF REJECTION

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: Claims 3, 5, 9, 10, 16, 18, 20, 22-26, 33, 35, 39, and 40, were previously rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher. Claims 3, 5, 9, 10, 16, 18, 20, 22-26, 33, 35, 39, and 40, are now rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,138,156	FLETCHER ET AL.	10-2000
2002/0116472	KALISH ET AL.	8-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 7, 11, 31, 37, and 41, are rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher et al. (hereinafter Fletcher), U.S. Patent 6,138,156 (supplied by applicant).

In considering claims 1 and 31, Fletcher teaches a method and computer program for remotely synchronizing a mobile terminal to a target computer, the mobile

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terminal comprising a local memory (28) and a screen (24) the method and computer program comprising the steps of: providing a set of synchronization rules comprising ordering and filtering rules, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1); monitoring a user's operation of the mobile terminal, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1); executing a computer program for adapting the ordering and filtering rules in response to the user's operation of the mobile terminal to generate a modified set of synchronization rules, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1); and exchanging synchronization data between the target computer and the mobile terminal using the modified set of synchronization rules, and storing synchronized data in the local memory of the mobile terminal, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1), wherein the synchronization data comprising a first data and a second data, (col. 9, lines 15-61); the step of monitoring a user's operation of the mobile terminal comprising the step of monitoring the user's preference in viewing data, (col. 9, lines 15-61); and if the step of monitoring the user's operation indicates a preference for viewing the first data before viewing the second data, the computer program adapting the ordering and filtering rules such that the first data are received by the mobile terminal before the second data (col. 9, lines 15-61).

In considering claims 7, and 37, Fletcher teaches the mobile terminal processing the modified set of synchronization rules to control the exchange of synchronization data between the mobile terminal and the target computer. See col. 6, lines 6-22.

In considering claims 11 and 41, Fletcher teaches the step of monitoring a user's operation of the mobile terminal comprising the step of identifying data of interest to the user, and the computer program adapting the ordering and filtering rules so that web pages related to the data of interest are received by the mobile terminal. See col. 9, lines 15-61.

Claims 2, 4, 6, 12-15, 17, 19, 21, 27-30, 32, 34, 36, and 42-45, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher in view of Kalish et al. (hereinafter Kalish), U.S. Patent Pub. No. 2002/0116472.

In considering claims 2, 17, and 32, although the disclosed method and computer program of Fletcher shows substantial features of the claimed invention, they fail to expressly disclose: displaying the synchronized data while concurrently receiving synchronization data from the target computer.

Nevertheless, in a similar field of endeavor, Kalish teaches a method and system for pushing content to mobile devices comprising: displaying synchronized data on the screen of a mobile terminal while concurrently receiving synchronization data from a target computer using a set of synchronization rules, (page 3, paragraph 37, also see Fig. 4).

Thus, given the teachings of Kalish, it would have been obvious to one of ordinary skill in the art to modify the teachings of Fletcher in order to show the step of displaying synchronized data on the screen of the mobile terminal while concurrently

receiving synchronization data from the target computer using the modified set of synchronization rules. Doing so would have demonstrated a means for transparently optimizing communication between the mobile terminal and the target computer by minimizing access latency, Fletcher page 3, paragraph 40.

In considering claims 4, 19, and 34, it is implicit that the teachings of Fletcher comprise the step of transmitting the modified set of synchronization rules from the mobile terminal to the target computer. See col. 10, lines 28-38.

In considering claims 6, 21, and 36, Fletcher teaches the target computer using the modified set of synchronization rules to configure a synchronization program executed by the target computer. See col. 7, lines 14-19.

In considering claims 12, 27, and 42, although the disclosed method and computer program of Kalish shows substantial features of the claimed invention, they fail to expressly disclose: Receiving a plurality of web pages associated with a user's monitored progression through a path of linked web pages.

Nevertheless, in a similar field of endeavor, Kalish teaches a method and system for pushing content to mobile devices comprising: Monitoring a user's progression through a path of linked web pages while browsing an Internet web site on-line, adapting a ordering and filtering rule based on the user's progression through the path of linked web pages, and receiving a plurality of web pages associated with the path,

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the web pages for display on the screen of a mobile terminal, (page 3, paragraph 37, also see Fig. 4).

Thus, given the teachings of Kalish, it would have been obvious to one of ordinary skill in the art to modify the teachings of Fletcher in order to show the steps of monitoring a user's progression through a path of linked web pages while browsing an Internet web site on-line, adapting an ordering and filtering rule based on the user's progression through the path of linked web pages, and receiving a plurality of web pages associated with the path, the web pages for display on the screen of a mobile terminal. This would have demonstrated a means for transparently optimizing communication between the mobile terminal and the target computer while minimizing access latency to a plurality of web pages, Fletcher page 3, paragraph 40.

In considering claims 13, 28, and 43, Kalish teaches the plurality of web pages received by the mobile terminal comprising web pages linked to the path. See page 3, paragraph 37. Also see Fig. 4. One of ordinary skill in the art would combine the teachings of Fletcher with Kalish for the reasons indicated in consideration of claims 12, 27, and 42.

In considering claims 14, 29, and 44, Kalish teaches the synchronization rules comprising a link-depth identifying a maximum depth of linked pages extending from the path to include in the plurality of web pages received by the mobile terminal. See page

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3, paragraph 39. One of ordinary skill in the art would combine the teachings of Fletcher with Kalish for the reasons indicated in consideration of claims 12, 27, and 42.

In considering claims 15, 30, and 45, the method and computer program taught by Fletcher are implicitly capable of comprising the steps for: the user enabling the monitoring of the progression through the path of linked web pages, and the user disabling the monitoring of the progression through the path of linked web pages. See col. 10, lines 28-38.

Claims 3, 5, 9, 10, 16, 18, 20, 22-26, 33, 35, 39, and 40, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher.

In considering claims 3, 18, and 33, although the teachings of Fletcher disclose substantial features of the claimed invention they fail to expressly disclose transmitting the modified set of synchronization rules from the mobile terminal to the target computer.

Nevertheless, transmitting data from a mobile terminal to a target computer was well known in the art at the time of the present invention. Furthermore, Fletcher teaches transmitting rules to a target computer by a system administrator (col. 10, lines 28-38).

Thus, if not implicit in the teachings of Fletcher, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Fletcher to disclose transmitting the modified set of synchronization rules from the mobile terminal to the

target computer. This would have advantageously allowed for the rules to be stored in the target computer, thereby, freeing valuable storage resources at the mobile terminal.

In considering claims 5, and 35, Fletcher teaches the target computer using the modified set of synchronization rules to configure a synchronization program executed by the target computer. See col. 7, lines 14-19.

In considering claims 9, 24, and 39, although the teachings of Fletcher disclose substantial features of the claimed invention they fail to expressly disclose the first data comprising emails and the second data comprising web pages.

Nevertheless, Fletcher teaches transmitting web pages (col. 7, lines 5-9), and emails (col. 8, lines 21-36), to the mobile terminal based on synchronization rules derived from monitoring a user's preference in viewing the synchronization data, and capabilities of the user's system (col. 9, line 15-col. 10, line 61).

It would have been apparent to a person of ordinary skill in the art to modify the teachings of Fletcher to disclose the first data comprising emails and the second data comprising web pages. This would have advantageously allowed the user to view emails before viewing web pages if the user most frequently requested emails, (Fletcher, col. 9, lines 15-61).

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In considering claims 10, 25, and 40, although the teachings of Fletcher disclose substantial features of the claimed invention they fail to expressly disclose the first data comprising a first web page and the second data comprising a second web page.

Nevertheless, Fletcher teaches transmitting web pages (col. 7, lines 5-9), and emails (col. 8, lines 21-36), to the mobile terminal based on synchronization rules derived from monitoring a user's preference in viewing the synchronization data, and capabilities of the user's system (col. 9, line 15-col. 10, line 61).

It would have been apparent to a person of ordinary skill in the art to modify the teachings of Fletcher to disclose the first data comprising a first web page and the second data comprising a second web page. This would have advantageously allowed the user to view a most frequently requested web page before a web page that was occasionally requested, (Fletcher, col. 9, lines 15-61).

In considering claim 16, Fletcher teaches a method for a mobile terminal to communicate with a target computer, the mobile terminal comprising: a local memory (28) and a screen (24), (Fig. 1); providing a set of synchronization rules comprising ordering and filtering rules, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1); monitoring a user's operation of the mobile terminal, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1); executing a computer program for adapting the ordering and filtering rules in response to the user's operation of the mobile terminal to generate a modified set of synchronization rules, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1); and exchanging synchronization data between the target computer and the mobile

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terminal using the modified set of synchronization rules, and storing synchronized data in the local memory of the mobile terminal, (col. 3, lines 66-67, col. 4, lines 1-32, also see Fig. 1), wherein the synchronization data comprising a first data and a second data, (col. 9, lines 15-61); the step of monitoring a user's operation of the mobile terminal comprising the step of monitoring the user's preference in viewing data, (col. 9, lines 15-61); and if the step of monitoring the user's operation indicates a preference for viewing the first data before viewing the second data, the computer program adapting the ordering and filtering rules such that the first data are received by the mobile terminal before the second data (col. 9, lines 15-61).

Although the teachings of Fletcher disclose substantial features of the claimed invention they fail to expressly disclose the mobile terminal comprising a terminal controller for monitoring the user's operation of the mobile terminal in order to modify synchronization rules.

Nevertheless, Fletcher teaches monitoring a user's operation of a mobile terminal at a server in order to modify synchronization rules (Fig. 4, col. 6, lines 34-46, and col. 10, lines 28-38). Fletcher also teaches the mobile terminal comprising a microprocessor that processes programming code that embodies Fletcher's invention, (col. 6, lines 6-10). Furthermore, storing data at a mobile terminal that could also be stored at a server in communication with the mobile terminal was well known in the art at the time of the present invention.

Thus, It would have been apparent to a person of ordinary skill in the art to modify the teachings of Fletcher to disclose the mobile terminal comprising a terminal

controller for monitoring a user's operation of the mobile terminal in order to modify synchronization rules. This would have advantageously performed monitoring of the user's terminal more efficiently than the server since controller would have faster access to the information that was being monitored.

In considering claim 20, Fletcher teaches the target computer using the modified set of synchronization rules to configure a synchronization program executed by the target computer. See col. 7, lines 14-19.

In considering claim 22, Fletcher teaches the mobile terminal processing the modified set of synchronization rules to control the exchange of synchronization data between the mobile terminal and the target computer. See col. 6, lines 6-22.

In considering claim 23, Fletcher teaches the synchronization data comprising a first data and a second data, the step of monitoring a user's operation of the mobile terminal comprising the step of monitoring the user's preference in viewing data, and if the step of monitoring the user's operation indicates a preference for viewing the first data before viewing the second data, the computer program adapting the ordering and filtering rules such that the first data are received by the mobile terminal before the second data. See col. 9, lines 15-61.

In considering claim 26, Fletcher teaches the step of monitoring a user's operation of the mobile terminal comprising the step of identifying data of interest to the user, and the computer program adapting the ordering and filtering rules so that web pages related to the data of interest are received by the mobile terminal. See col. 9, lines 15-61.

(10) Response to Argument

With regards to claims 1 and 31, appellants argue on page 5, section A, second paragraph of the appeal brief, that Examiner has incorrectly construed Fletcher as disclosing to modify synchronization rules "to order the synchronization data transmitted to a mobile terminal ". Examiner respectfully disagrees.

Appellants claimed invention recites, "wherein the synchronization data comprises a first data and a second data; the step of monitoring a user's operation of the mobile terminal comprises the step of monitoring the user's preference in viewing data; and if the step of monitoring the user's operation indicates a preference for viewing the first data before viewing the second data, the computer program adapting the ordering and filtering rules such that the first data are received by the mobile terminal before the second data." Examiner has interpreted first data to be the most frequently requested data in the teachings of Fletcher, and the second data to be the data only occasionally requested, (col. 9, lines 15-61). Fletcher teaches monitoring a user's preference in viewing the most frequently requested data and the data only occasionally requested by the user, and adapting the ordering and filtering rules such

that the most frequently requested data is received, by default, before the occasionally requested data, (col. 9, lines 15-61). Examiner asserts that although the occasionally requested data must be requested by the user after receiving the most frequently requested data, Appellants claimed invention fails to clearly indicate how the first data and second data are transmitted to the terminal, and/or the relationship between the first and second data. Thus, giving broadest reasonable interpretation, the teachings of Fletcher read over Appellants claimed invention. Examiner has expressed the need for Applicant to define the claimed invention more clearly and distinctly.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of

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rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.


Respectfully submitted,

Hassan Phillips



A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Paul Sewell

Approved:


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Conferees:

Patrice Winder

Zarni Maung



ZARNI MAUNG
SUPERVISORY PATENT EXAMINER



PATRICE WINDER
PRIMARY EXAMINER